

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSH L. ANDERSON,

Plaintiff,

v.

CIVIL ACTION NO. 04-135 ERIE

KATIE L. SMITH,

Defendant.

**DEFENDANT SMITH'S RESPONSE TO PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS**

Pursuant to **RULE 34** of the **FEDERAL RULES OF CIVIL PROCEDURE**, plaintiff requests that defendant Katie L. Smith produce for inspection and copying the following documents:

1. Any and all personal notes taken by defendant Katie L. Smith regarding plaintiff Josh L. Anderson from October 29, 2001 to present.

Response: Objection. This request is overly broad and, to that extent, is not relevant to the subject matter involved in this action, and this request is not reasonably calculated to lead to the discovery of admissible evidence. This matter involves a claim of excessive force being used by one corrections officer (defendant Smith) on February 4, 2004 against one jail inmate (plaintiff Anderson). Notwithstanding this objection, copies of undated personal notes of defendant Smith relating, in part, to the incident of February 4, 2004 are produced herewith and Bates stamped S 33 – S 34.

2. Any and all e-mails, memorandums, reports, etc. produced, submitted, or filed about, against, or on behave of plaintiff Josh. L. Anderson.

Response: This request is overly-broad and, to that extent, is not relevant to the subject matter involved in this action, and this request is not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding this objection, copies of the following documents are produced herewith.

Copies of memoranda from staff of the Warren County Prison that relate to the events of February 4, 2004 are produced herewith:

Document	Page Number
2-4-04 memo from C.O. Stephen Breon	S 9

2-4-04 memo from Sgt. Robert Burns	S 10 - S 11
2-4-04 memo from C.O. Kelly Curtis	S 12
2-4-04 memo from C.O. Jerry DiPenti	S 13
2-4-04 memo from C.O. Jane Farnsworth	S 14
2-4-04 memo from C.O. Mark Lehn	S 15
2-4-04 memo from C.O. Jacob Sack	S 16
2-4-04 handwritten isolation log	S 17
2-5-04 notes of William Schultz, M.D. re his medical examination of plaintiff on that date	S 18
3-2-04 Inmate Grievance Report Form of plaintiff regarding incident of 2-3-04	S 19 - S 20
3-22-04 Inmate Grievance Report Form of plaintiff regarding incident of 2-4-04	S 21 - S 22
3-22-04 Inmate Grievance Report Form of plaintiff regarding alleged lack of response to requests	S 23 - S 24
10-31-04 memo from plaintiff Josh Anderson	S 26
<p>On January 19, 2006 the Court issued an Order requiring defendant to serve supplemental answers to plaintiff's first set of interrogatories identifying any "separation order" issued with respect to plaintiff and defendant Smith. Provided herewith are copies of the following documents, which also relate to the same.</p>	
5-16-03 memo from Lt. Randolph Ickert	S 7
10-28-03 memo from D.A. Irvine	S 8
5-8-04 memo from Officer Katie Smith	S 32
8-25-05 memo from Sheriff Larry Kopko	S 27, S 29
8-25-05 memo from Capt. Randolph Ickert	S 28 - S 29

8-25-05 memo from Sheriff Larry Kopko S 30

8-25-05 memo from Sheriff Larry Kopko S 31

8-30-05 memo from C.O. Katie Smith S 28

See also the documents produced by defendant Smith on December 22, 2005:

Document	Page Number
2-4-04 Warren County Sheriff's Office Jail Desk Log, Shift 0700-1500	S 1
2-4-04 memo from C.O. Katie Smith	S 2

3. Any and all grievances and/or complaints filed, or submitted, by plaintiff Josh L. Anderson, or any other non-party individual, i.e. Inmate and/or Correctional staff, against defendant Katie L. Smith from October 29, 2001, to present.

Response: Objection. See objection to Request 2. Notwithstanding this objection, see documents Bates stamped S 19 - S 22.

4. A complete and accurate copy of the Warren County Prison Code of Conduct and Ethics.

Response: Objection. See objection to Request 2. Notwithstanding this objection, produced herewith are copies of the following documents:

Document	Page Number
3-18-99 Inmate Complaint Procedure	S 3 - S 4
11-8-99 Policy/Procedure/Directive regarding Post Operations	S 5 - S 6

5. A complete and accurate list outlining each and every responsibility required of defendant Katie L. Smith on February 4, 2004.

Response: This request is not relevant to the subject matter involved in this action and this request is not reasonably calculated to lead to the discovery of admissible evidence.

6. A complete copy of the Warren County Prison Desk Logs for "A" Block (MAX) from the year of 2002, through 2004.

Response: Objection. See objection to Request 2. Notwithstanding this objection, see the Jail Desk Log produced on 12-22-05 and Bates stamped S 1.

7. A complete copy of Warren County Prison Isolation Logs in relation to plaintiff Josh L. Anderson from the year 2002 through 2004.

Response: See objection to Request 2. Notwithstanding this objection, see document produced in response to Request 2, Bates stamped S 17.

8. A true copy of the Warren County Prison Observation Recording of "A" Block (MAX) for the day of February 4, 2004.

Response: A copy of this recording is being made and will be produced as soon as the copying process is complete, which should be on or before February 24, 2006.

9. A complete copy of plaintiff Josh L. Anderson's Warren County Prisoner's Inmate File (record).

Response: Objection. See objection to Request 5.

January 16, 2006

/s/ Josh L. Anderson

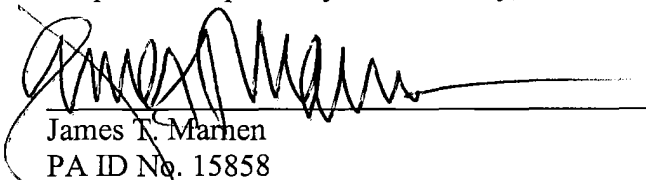
JOSH L. ANDERSON

FW-6915

1 KELLEY DRIVE

COAL TOWNSHIP, PA 17866-1021

Responses respectfully submitted by,

A handwritten signature in black ink, appearing to read "James T. Marnen", is written over a horizontal line.

James T. Marnen

PA ID No. 15858

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Attorney for Defendant,

Katie L. Smith, née Katie L. Avenali

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSH L. ANDERSON,

Plaintiff,

V.

CIVIL ACTION NO. 04-135 ERIE

LARRY E. KOPKO, et al.,

Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 16th. day of January, 2006, a copy of the within document entitled Plaintiff's First Request for Production of Documents was sent via. certified mail to all counsel of record.

Article Number 7002 2410 0003 5654 1121

/s/ Josh L. Anderson

JOSH L. ANDERSON

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSH L. ANDERSON,

Plaintiff

v.

LARRY E. KOPKO, RANDY J. ICKERT
and KATIE L. AVENALI,

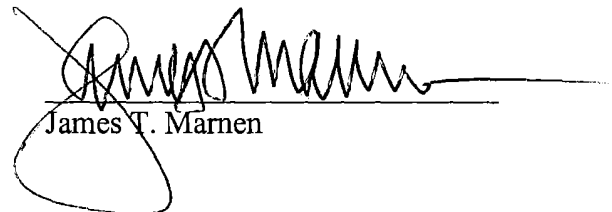
Defendants

Civil Action No. 04-135 Erie

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of February, 2006, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.



James T. Marnen

#657366